

J. BRYAN QUESENBERRY (9156)
HILL, JOHNSON & SCHMUTZ, L.C.
RiverView Plaza
4844 North 300 West, Suite 300
Provo, Utah 84604
Telephone (801) 375-6600
Facsimile (801) 375-3865

Former Counsel for Plaintiff Daryl P. Holman

IN THE UNITED STATES DISTRICT COURT
DISTRICT OF UTAH, CENTRAL DIVISION

DARYL P. HOLMAN,)
Plaintiff,)
v.)
NEW YORK LIFE INSURANCE COMPANY))
and NYLINK INSURANCE AGENCY)
INCORPORATED, and DOES I-X,)
Defendants.)

HILL, JOHNSON & SCHMUTZ, L.C.) Case No. 2:10cv00490
Intervenor.) Judge Ted Stewart

Intervenor Hill, Johnson & Schmutz, L.C., by and through counsel, complains and alleges against Plaintiff Daryl P. Holman as follows:

1. Intervenor is a Utah entity doing business in Utah County, Utah.
2. Plaintiff is an individual residing in Utah County, Utah.

3. The Court has jurisdiction and venue regarding this complaint.
4. Intervenor provided certain legal services for the benefit of Plaintiff.
5. Plaintiff agreed to pay Intervenor an hourly fee as well as pay the past-due bill owed to Intervenor by Plaintiff's deceased brother.
6. Based on this arrangement, Intervenor agreed to represent Plaintiff.

FIRST CAUSE OF ACTION

7. The above paragraphs are hereby realleged.
8. Plaintiff and intervenor entered into an agreement.
9. Intervenor performed its obligations under said agreement, providing Plaintiff certain legal services.
10. Plaintiff has breached his obligations under said agreement.
11. Said breach has damaged Intervenor in an amount no less than \$24,416.79.

SECOND CAUSE OF ACTION

12. The above paragraphs are hereby realleged.
13. Intervenor has filed for record a notice of attorney's fees lien pursuant to U.C.A. § 38-2-7.
14. Intervenor has complied with all requirements set forth in said statute preliminary to filing for record a notice of lien.
15. Plaintiff has failed to respond to Intervenor's demand letter which provided Plaintiff 30 days to respond thereto.
16. Intervenor seeks to foreclose said lien by appearing and intervening in the present

case, and by obtaining payment of said lien from the insurance proceeds to be interpleaded in this case.

PRAYER FOR RELIEF

Intervenor prays for relief as follows:

- a. for payment from the interpleaded funds to satisfy the lien and damages at issue herein;
- b. alternatively, for a judgment of damages in the amount no less than \$24,416.79;
- c. for interest as allowed by law;
- d. for fees and costs incurred in bringing this complaint.

DATED this ____ day of July, 2010.

HILL, JOHNSON & SCHMUTZ, L.C.

J. Bryan Quesenberry
Counsel for Intervenor

CERTIFICATE OF MAILING

The undersigned hereby certifies that on the _____ day of July 2010, they caused a true and correct copy of the foregoing **INTERVENOR'S COMPLAINT** to be delivered to the following:

Matthew R. Lewis
Michael K. Erickson
RAY QUINNEY & NEBEKER P.C.
36 South State Street, Suite 1400
P.O. Box 45385
Salt Lake City, Utah 84145-0385

Derek A. Coulter
Robert T. Tateoka
Law Office of Derek A. Coulter, P.C.
11576 South State Street, Suite 503
Draper, UT 84020

Sent Via:

Hand -Delivery
 Facsimile
 US Mail
